

## REMARKS

### Summary of the Office Action

Claims 1-25 are pending in this Application. In the Office Action, the Examiner asserted the claims are directed to patentably distinct species of inventions and entered a restriction requirement under 35 U.S.C. § 121. Specifically, the Examiner requires election of one of the following groups of claims:

- Group A      Figures 1-7;
- Group B      Figure 8;
- Group C      Figure 9;
- Group D      Figure 10; and
- Group E      Figure 11.

### Traverse and Provisional Election

In response to the restriction requirement, Applicant respectfully traverses the restriction requirement and requests the requirement be withdrawn. Pursuant to M.P.E.P. § 803, a restriction requirement is proper only if (1) the inventions are independent or distinct **as claimed**, and (2) there would be a serious burden on the Examiner if the restriction is not required.

Here, a *prima facie* showing has not been made for insisting upon the restriction because neither prong of M.P.E.P. § 803 is satisfied. First, the suggested Groups are not distinct as claimed because it is believed all claims, Claims 1-25, read on Figures 1-7. Second, Applicant submits that the same classes and subclasses would be searched for each group. Thus, nothing has been represented to show a serious burden on the Examiner if restriction is not required.

Furthermore, M.P.E.P. § 802.01 states that the distinctness required for restriction means the subjects “ARE PATENTABLE (novel and unobvious) OVER EACH OTHER” (emphasis in original). (See also M.P.E.P. § 808.02, which states that where “related inventions are not patentably distinct as claimed, restriction . . . is never proper.” The Patent Office has also stated “it is the imperative the requirement should never be made where related inventions as claimed are not distinct.” M.P.E.P. § 806.)

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The Examiner must adopt these positions in order to enter the restriction requirement. It follows that these same positions may be relied upon by the Applicant during examination of this and continuing applications. If the Examiner is not taking these positions, then it is submitted that the restriction requirement should be withdrawn upon reconsideration.

If the Examiner makes the restriction requirement final, Applicant provisionally elects to prosecute the claims of Group A or species A, Claims 1-25, Figures 1-7. As such, Applicant respectfully submits that no claim amendments are presently necessary.

Respectfully submitted,

Dated: December 23, 2004

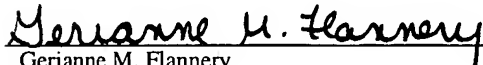
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